

SB3038



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3038

Introduced 2/4/2010, by Sen. Mattie Hunter

SYNOPSIS AS INTRODUCED:

210 ILCS 47/2-112
210 ILCS 47/2-203
210 ILCS 47/2-204
210 ILCS 47/3-303.1

Amends the MR/DD Community Care Act. Requires the Director of the Department of Public Health to appoint a MR/DD Facility Advisory Board to advise and consult with the Department on all aspects of its responsibilities under the Act. Contains provisions on the composition of the Advisory Board. Changes all references to the Long-Term Care Facility Advisory Board to the MR/DD Facility Advisory Board. Effective July 1, 2010.

LRB096 17649 KTG 33007 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The MR/DD Community Care Act is amended by
5 changing Sections 2-112, 2-203, 2-204, and 3-303.1 as follows:

6 (210 ILCS 47/2-112)

7 (This Section may contain text from a Public Act with a
8 delayed effective date)

9 Sec. 2-112. Grievances. A resident shall be permitted to
10 present grievances on behalf of himself or herself or others to
11 the administrator, the MR/DD Long Term Care Facility Advisory
12 Board established under Section 2-204 of this Act ~~Section 2-204~~
13 ~~of the Nursing Home Care Act~~, the residents' advisory council,
14 State governmental agencies or other persons without threat of
15 discharge or reprisal in any form or manner whatsoever. The
16 administrator shall provide all residents or their
17 representatives with the name, address, and telephone number of
18 the appropriate State governmental office where complaints may
19 be lodged.

20 (Source: P.A. 96-339, eff. 7-1-10.)

21 (210 ILCS 47/2-203)

22 (This Section may contain text from a Public Act with a

1 delayed effective date)

2 Sec. 2-203. Residents' advisory council. Each facility
3 shall establish a residents' advisory council. The
4 administrator shall designate a member of the facility staff to
5 coordinate the establishment of, and render assistance to, the
6 council.

7 (a) The composition of the residents' advisory council
8 shall be specified by Department regulation, but no employee or
9 affiliate of a facility shall be a member of any council.

10 (b) The council shall meet at least once each month with
11 the staff coordinator who shall provide assistance to the
12 council in preparing and disseminating a report of each meeting
13 to all residents, the administrator, and the staff.

14 (c) Records of the council meetings will be maintained in
15 the office of the administrator.

16 (d) The residents' advisory council may communicate to the
17 administrator the opinions and concerns of the residents. The
18 council shall review procedures for implementing resident
19 rights, facility responsibilities and make recommendations for
20 changes or additions which will strengthen the facility's
21 policies and procedures as they affect residents' rights and
22 facility responsibilities.

23 (e) The council shall be a forum for:

24 (1) Obtaining and disseminating information;

25 (2) Soliciting and adopting recommendations for
26 facility programing and improvements;

1 (3) Early identification and for recommending orderly
2 resolution of problems.

3 (f) The council may present complaints as provided in
4 Section 3-702 on behalf of a resident to the Department, the
5 MR/DD Long Term Care Facility Advisory Board established under
6 Section 2-204 of this Act, Section 2-204 of the Nursing Home
7 Care Act or to any other person it considers appropriate.

8 (Source: P.A. 96-339, eff. 7-1-10.)

9 (210 ILCS 47/2-204)

10 (This Section may contain text from a Public Act with a
11 delayed effective date)

12 Sec. 2-204. MR/DD Long Term Care Facility Advisory Board.
13 The Director shall appoint a MR/DD Facility Advisory Board to
14 consult with the Department and the residents' advisory
15 councils created under Section 2-203.

16 (a) The Board shall be comprised of the following persons:

17 (1) The Director who shall serve as chairman, ex
18 officio, and nonvoting; and

19 (2) One representative each of the Department of
20 Healthcare and Family Services, the Department of Human
21 Services, the Department on Aging, and the Office of the
22 State Fire Marshal, all nonvoting members;

23 (3) One member who shall be a physician licensed to
24 practice medicine in all its branches;

25 (4) One member who shall be a registered nurse selected

1 from the recommendations of professional nursing
2 associations;

3 (5) Four members who shall be selected from the
4 recommendations by organizations whose membership consists
5 of facilities;

6 (6) Two members who shall represent the general public
7 who are not members of a residents' advisory council
8 established under Section 2-203 and who have no
9 responsibility for management or formation of policy or
10 financial interest in a facility;

11 (7) One member who is a member of a residents' advisory
12 council established under Section 2-203 and is capable of
13 actively participating on the Board; and

14 (8) One member who shall be selected from the
15 recommendations of consumer organizations which engage
16 solely in advocacy or legal representation on behalf of
17 residents and their immediate families.

18 (b) The terms of those members of the Board appointed prior
19 to the effective date of this amendatory Act of the 96th
20 General Assembly shall expire on December 31, 2010. Members of
21 the Board created by this amendatory Act of the 96th General
22 Assembly shall be appointed to serve for terms as follows: 3
23 for 2 years, 3 for 3 years and 3 for 4 years. Each successor
24 member shall be appointed for a term of 4 years. Any member
25 appointed to fill a vacancy occurring prior to the expiration
26 of the term for which his predecessor was appointed shall be

1 appointed for the remainder of such term. The Board shall meet
2 as frequently as the chairman deems necessary, but not less
3 than 4 times each year. Upon request by 4 or more members the
4 chairman shall call a meeting of the Board. The affirmative
5 vote of 6 members of the Board shall be necessary for Board
6 action. A member of the Board can designate a replacement to
7 serve at the Board meeting and vote in place of the member by
8 submitting a letter of designation to the chairman prior to or
9 at the Board meeting. The Board members shall be reimbursed for
10 their actual expenses incurred in the performance of their
11 duties.

12 (c) The Advisory Board shall advise the Department of
13 Public Health on all aspects of its responsibilities under this
14 Act, including the format and content of any rules promulgated
15 by the Department of Public Health. Any such rules, except
16 emergency rules promulgated pursuant to Section 5-45 of the
17 Illinois Administrative Procedure Act, promulgated without
18 obtaining the advice of the Advisory Board are null and void.
19 In the event that the Department fails to follow the advice of
20 the Board, the Department shall, prior to the promulgation of
21 such rules, transmit a written explanation of the reason
22 thereof to the Board. During its review of rules, the Board
23 shall analyze the economic and regulatory impact of those
24 rules. If the Advisory Board, having been asked for its advice,
25 fails to advise the Department within 90 days, the rules shall
26 be considered acted upon. ~~The Long Term Care Facility Advisory~~

1 ~~Board established under Section 2-204 of the Nursing Home Care~~
2 ~~Act shall advise the Department of Public Health on all aspects~~
3 ~~of its responsibilities under this Act, including the format~~
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15 ~~advise the Department within 90 days, the rules shall be~~
16 ~~considered acted upon.~~

17 (Source: P.A. 96-339, eff. 7-1-10.)

18 (210 ILCS 47/3-303.1)

19 (This Section may contain text from a Public Act with a
20 delayed effective date)

21 Sec. 3-303.1. Waiver of facility's compliance with rule or
22 standard. Upon application by a facility, the Director may
23 grant or renew the waiver of the facility's compliance with a
24 rule or standard for a period not to exceed the duration of the
25 current license or, in the case of an application for license

1 renewal, the duration of the renewal period. The waiver may be
2 conditioned upon the facility taking action prescribed by the
3 Director as a measure equivalent to compliance. In determining
4 whether to grant or renew a waiver, the Director shall consider
5 the duration and basis for any current waiver with respect to
6 the same rule or standard and the validity and effect upon
7 patient health and safety of extending it on the same basis,
8 the effect upon the health and safety of residents, the quality
9 of resident care, the facility's history of compliance with the
10 rules and standards of this Act and the facility's attempts to
11 comply with the particular rule or standard in question. The
12 Department may provide, by rule, for the automatic renewal of
13 waivers concerning physical plant requirements upon the
14 renewal of a license. The Department shall renew waivers
15 relating to physical plant standards issued pursuant to this
16 Section at the time of the indicated reviews, unless it can
17 show why such waivers should not be extended for the following
18 reasons:

19 (a) the condition of the physical plant has deteriorated or
20 its use substantially changed so that the basis upon which the
21 waiver was issued is materially different; or

22 (b) the facility is renovated or substantially remodeled in
23 such a way as to permit compliance with the applicable rules
24 and standards without substantial increase in cost. A copy of
25 each waiver application and each waiver granted or renewed
26 shall be on file with the Department and available for public

1 inspection. The Director shall annually review such file and
2 recommend to the MR/DD ~~Long-Term Care~~ Facility Advisory Board
3 established under Section 2-204 of this Act ~~Section 2-204 of~~
4 ~~the Nursing Home Care Act~~ any modification in rules or
5 standards suggested by the number and nature of waivers
6 requested and granted and the difficulties faced in compliance
7 by similarly situated facilities.

8 (Source: P.A. 96-339, eff. 7-1-10.)

9 Section 99. Effective date. This Act takes effect July 1,
10 2010.